



**CITY OF WESTLAKE, OHIO
ORDINANCE NO. 2015-50:**

**AN ORDINANCE AUTHORIZING THE
MAYOR TO ENTER INTO A REAL ESTATE
SALE CONTRACT BETWEEN THE CITY
OF WESTLAKE AND GALILEE PROPERTY,
LLC, AND DECLARING AN EMERGENCY.**

WHEREAS, the City of Westlake, by the Mayor, upon the approval of Council, has offered to sell certain real estate to Galilee Property, LLC, being all of Permanent Parcel Nos. 217-14-023, 217-14-030 and 217-14-025; and

WHEREAS, the parties desire to enter into a Real Estate Sale Contract to provide for the development of luxury townhomes and enhance the real property tax base of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WESTLAKE, COUNTY OF CUYAHOGA AND STATE OF OHIO:

Section 1: That the Mayor be and he hereby is authorized and directed to enter into a Real Estate Sale Contract with Galilee Property, LLC to sell certain real estate located in the City of Westlake, said property being known as Permanent Parcel Nos. 217-14-023, 217-14-030 and 217-14-025, which Real Estate Sale Contract is in a form substantially attached hereto and made a part hereof as though fully rewritten herein and marked Exhibit "A" with such revisions not affecting the substance of such Contract as are approved by the Mayor and Director of Law.

Section 2: That the Director of Law be and he hereby is authorized and directed to approve any and all documents necessary to effectuate the transaction called for by the Real Estate Sale Contract.

Section 3: That it is found and determined that all formal actions of this Council concerning and relating to this legislation were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements including Section 10, Article XI of the Charter of the City of Westlake and Section 121.22 of the Ohio Revised Code.

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Section 4: That this legislation is hereby declared to be an emergency measure immediately necessary to promote development and enhance the real property tax base in the City of Westlake, and further provided it receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor.

Passed: 4/16/15



Michael F. Killeen
President of Council

Presented to the Mayor: 4/17/15

Approved: 4/17/15

ATTEST:



Denise L. Rosenbaum, Clerk of Council



Dennis M. Clough, Mayor

I, Denise L. Rosenbaum, Clerk of Council of the City of Westlake do hereby certify that Ordinance/Resolution no. 2015-50 adopted 4/16/15 was duly posted on 4/17/15 and remained posted for a period of 15 days thereafter in not less than 2 of the most public places in the City as determined by the Charter of said City.

REAL ESTATE SALE CONTRACT

THIS REAL ESTATE SALE CONTRACT ("Contract") is made as of this ____ day of April 2015, by and between GALILEE PROPERTY, LLC, an Ohio limited liability corporation ("Purchaser"), and THE CITY OF WESTLAKE, OHIO, an Ohio municipal corporation ("Seller").

WITNESSETH:**1. PURCHASE AND SALE**

Seller is the owner of certain parcels of land containing approximately 1.4 +/- acres located in the City of Westlake (the "City"), State of Ohio, and legally described on Exhibit "A" attached hereto and made a part hereof (the "Property"). Subject to the terms and conditions hereof, Seller agrees to sell to Purchaser and Purchaser agrees to purchase from Seller the Property at the Purchase Price set forth in Section 2 of this Contract and subject to the terms and conditions set forth herein. On the Closing Date set forth in Section 7 of this Contract, Seller shall cause to be conveyed to Purchaser fee simple title to the Property by a recordable special warranty deed, subject only to the Permitted Title Exceptions (as defined in Section 4(a) herein below) which deed shall include a restrictive covenant regarding use of the land for luxury townhouse condominium development.

The purpose and intent of this Contract is for Seller to create luxury townhouse condominium development on said Property with a maximum of nineteen (19) units which shall enhance the real property tax base in the City of Westlake. The parties intend development pursuant to the conceptual site plan prepared by C.A. McGettrick, LLC, Architects, which is attached hereto as Exhibit "B".

2. PURCHASE PRICE

The purchase price of the Property shall be One Hundred Forty-Seven Thousand and 00/100 Dollars (\$147,000.00) (the "Purchase Price").

3. EARNEST MONEY

Within three (3) business days of the execution of this Contract, Purchaser shall deposit with Barristers of Ohio ("Title Insurer") the sum of One Thousand and 00/100 Dollars (\$1,000.00) as earnest money, which sum shall be held for the mutual benefit of the parties hereto in a strict joint order escrow with Title Insurer in accordance with the provisions of a standard form of strict joint order escrow. Such sum, together with any interest earned thereon, is hereinafter referred to as the "Earnest Money". The Earnest Money shall be credited against the Purchase Price at the time of Closing, and Purchaser agrees to pay or satisfy the balance of the Purchase Price, plus or minus prorations, at the time of Closing by wire transfer of immediately available funds.

4. TITLE AND SURVEY

- (a) No later than forty-five (45) days after the date of this Contract, Seller shall deliver or cause to be delivered to Purchaser, at the address set forth in **Section 15** of this Contract, a title commitment for an ALTA Form B Owners Title Insurance Policy issued by Title Insurer covering title to the Property on or after the date hereof, showing Purchaser as the proposed insured and title to the Property in Seller (the **"Title Commitment"**) and legible copies of all documents shown as exceptions on the Title Commitment (the **"Exception Documents"**). If Purchaser objects to any exceptions to title shown in the Title Commitment (the **"Unpermitted Exceptions"**), Purchaser shall give Seller written notice of such objection within fifteen (15) days following the date of Purchaser's receipt of the Title Commitment and Exception Documents. Any exceptions to title shown on the Title Commitment to which Purchaser does not so object shall be **"Permitted Title Exceptions"** for purposes of this Contract. If Purchaser has given notice of objection identifying Unpermitted Exceptions within said fifteen (15) day period, Seller shall, at its option, have thirty (30) days from the date of receipt of Purchaser's notice of objection to have such Unpermitted Exceptions removed from the Title Commitment (or to have Title Insurer commit to insure over such Unpermitted Exceptions) and provide evidence thereof to Purchaser. If Seller fails to have such Unpermitted Exceptions removed (or insured over), and if such Unpermitted Exceptions would materially interfere with Purchaser's intended use of the Property, in Purchaser's sole judgment, Purchaser may elect, as its sole remedy, by written notice to Seller given within ten (10) days following the expiration of said thirty (30) day period, to either (i) terminate this Contract (in which event the Earnest Money shall be returned to Purchaser), or (ii) accept title to the Property subject to such Unpermitted Exceptions. If Purchaser fails to elect to either (i) or (ii) above within such ten (10) day period, Purchaser shall be deemed to have elected (ii) above and Purchaser shall remain obligated to close this transaction in accordance with the terms hereof. On the Closing Date, at Purchaser's option and sole cost, Purchaser may cause the Title Insurer to issue an owner's title insurance policy (the **"Title Policy"**) in the amount of the Purchase Price insuring fee simple title to the Property in Purchaser as of the Closing Date, subject to the Permitted Exceptions and standard policy exceptions.
- (b) No later than forty-five (45) days after the date of this Contract, Purchaser at its discretion, may obtain a satisfactory staked survey of the Property (the **"Survey"**), prepared and certified in accordance with ALTA Minimum Standard Detail Requirements for Land Title Surveys. If the Survey discloses any title matters to which Purchaser objects (**"Survey Defect(s)"**), Purchaser shall give Seller written notice of such objection within fifteen (15) days following the date of Purchaser's receipt of the Survey (provided that failure of Purchaser to give such notice of objection shall be deemed to be acceptance by Purchaser of all matters disclosed by the Survey), and Seller shall, at its option, have thirty (30) days from the date of receipt of such notice to have such Survey Defects removed (or to have Title Insurer commit to insure over such Survey Defects) and provide

evidence thereof to Purchaser. If Seller fails to have such Survey Defects removed (or insured over), and if such Survey Defects would materially interfere with Purchaser's intended use of the Property in Purchaser's sole judgment, Purchaser may elect, as its sole remedy, by notice to Seller given within ten (10) days following the expiration of said thirty (30) day period, to either (i) terminate this Contract (in which event the Earnest Money shall be returned to Purchaser), or (ii) accept the Property subject to such Survey Defects. If Purchaser fails to elect either (i) or (ii) above within such ten (10) day period, Purchaser shall be deemed to have elected (ii) above and Purchaser shall remain obligated to close this transaction in accordance with the terms hereof.

- (c) Notwithstanding anything to the contrary contained in this Contract, Seller shall have no affirmative obligation hereunder to expend any funds or incur any liabilities in order to cause any title exceptions to be removed from the Title Commitment or insured over by Title Insurer. If the Title Commitment discloses exceptions other than the Permitted Title Exceptions, and other than those which Seller has agreed to discharge or have Title Insurer commit to insure over, then, unless Purchaser agrees to accept title as it then is, Seller may, at its option, terminate this Contract, in which event the Earnest Money shall be returned to Purchaser as Purchaser's sole remedy under this Contract.

5. PRORATIONS AND EXPENSES

- (a) All general real estate taxes and other similar items (excluding special assessments) with respect to the Property not due and payable as of the Closing Date shall be prorated as of the Closing Date based on the most recent ascertainable tax information. Any such taxes prorated on an estimated basis on the Closing Date shall be reprorated by the parties hereto when the actual amount of such taxes becomes known, provided that Purchaser shall be entirely responsible for any increases in real estate taxes due to improvements on the Property constructed by Purchaser or made subsequent to the Closing Date or due to occupancy of any improvements on the Property. Any adjustment due to reproration shall be effected not later than thirty (3) days following final determination of the amount of such real estate taxes and demand by the party to whom credit is due. Any special assessments affecting the Property which are due and payable either before or after the Closing Date (provided that such special assessments for the Property were assessed before the Closing Date) shall be paid by Seller at Closing.

If the Property has not been separately assessed for real estate tax purposes as of the Closing Date, there shall be prorated a portion of the real estate taxes and assessments for the Property so assessed equal to that portion which the area (based on acreage) of the Property bears to the total acreage of the Property so assessed. The parties hereto agree to cooperate to effect a tax division to create a separate tax parcel for the Property. In the event that separate tax bills are not issued for the calendar year in which the Closing occurs, Seller and Purchaser

shall each pay when due the portion of such tax bill or bills for which such party is responsible. The party receiving the tax bill shall promptly (and in any event at least fifteen (15) days prior to the due date) deliver a copy of such bill to the other party, who shall remit its share of such bill no later than three (3) days prior to the due date. If either party fails to pay its share of any such bill and the other party pays the entire bill to prevent a delinquency, the party failing to pay its share shall be liable to the other party for the amount of such unpaid share plus interest accruing from the due date of the tax bill until such share is paid in full at a rate equal to three percent (3%) in excess of the prime rate as published from time to time by The Wall Street Journal (or another national newspaper if it shall cease publication), changing when and as such prime rate changes.

The provisions of this Section 5(a) shall survive the Closing of the transaction contemplated by this Contract.

- (b) Purchaser shall pay all recording charges for Warranty Deed. Purchaser shall pay for all title examination and insurance policy fees set forth in Section 4(a) herein. Purchaser shall pay all escrow fees in connection with this transaction. Purchaser shall pay all recording charges for its mortgages and/or other security instruments and pay all charges (including title charges and premiums) in connection with financing obtained by Purchaser. Except as otherwise provided herein, the parties shall each be solely responsible for the fees and disbursements of their respective legal counsel and other professional advisors. Purchaser shall pay any required impact fee as a result of the development of the Property.

6. CONDITIONS TO CLOSING

- (a) In addition to any other conditions set forth in this Contract, Seller's obligation to close on Purchaser's purchase of the Property is subject to each and all of the following conditions precedent:
 - (i) All of Purchaser's representations and warranties contained herein shall be true and correct as of the Closing in all material respects, provided however Seller shall, promptly upon becoming aware of same, advise Purchaser if it believes that any of the Purchaser's representations and warranties contained herein are not true and correct as of the Closing in all material respects, and Purchaser shall thereupon have a reasonable period to cure any purported breach of its representations and warranties; and
 - (ii) Seller shall retain title to the Property and shall not be required to close and deliver a deed to the Property until all of the following conditions are met: (1) Purchaser obtains development plan approval from the City of Westlake for the development of luxury townhouse condominium development with a maximum of nineteen (19) units; (2) Purchaser shall apply for all local, state and federal permits and approval necessary for construction and completion. Purchaser shall thereafter proceed with the

development in accordance with all terms and conditions of approval as set forth by the Planning Commission and the City of Westlake.

- (iii) All obligations of Purchaser that were to have been performed on or before the Closing Date have been timely and duly performed. If any condition precedent to Closing of Seller as set forth herein has not been fulfilled and satisfied on or before the Closing Date, Seller may, after notice to Purchaser and Purchaser's failure to cure, elect at any time thereafter, to terminate this Contract, provided that Seller is not itself in default, and exercise such remedies as provided in Section 14.
- (b) In addition to any other conditions set forth in this Contract, Purchaser's obligation to close the purchase of the Property is subject to each and all of the following conditions precedent:
 - (i) All of Seller's representations and warranties contained herein shall be true and correct as of the Closing in all material respects, provided however Purchaser shall, promptly upon becoming aware of same, advise Seller if it believes that any of Seller's representations and warranties contained herein are not true and correct as of the Closing in all material respects, and Seller shall thereupon have a reasonable period to cure any purported breach of its representations and warranties;
 - (ii) All obligations of Seller that were to have been performed on or before the Closing Date have been timely and duly performed. If any condition precedent to Closing of Seller as set forth herein has not been fulfilled and satisfied on or before the Closing Date, Purchaser may, after notice to Seller and Seller's failure to cure, elect at any time thereafter, to terminate this Contract, provided that Purchaser is not itself in default, and exercise such remedies as provided in Section 14.

7. CLOSING

- (a) Provided all conditions to Closing described in this Contract have been fulfilled or waived, the Closing (the "Closing") shall take place at the office of Title Insurer, Barristers of Ohio, on such date as is mutually agreed to by the parties in writing once all conditions to the Closing have been met (the "Closing Date").
- (b) On the Closing Date, Seller shall deliver or cause to be delivered to Purchaser the following Closing documents:
 - (i) The special warranty deed as provided in Section 1 hereof, including a restrictive covenant as to the use of the land as a luxury townhouse condominium development;
 - (ii) A FIRPTA Affidavit in customary form duly executed by Seller; and

- (iii) An affidavit sufficient to enable Title Insurer to delete all standard exceptions to the Title Commitment.
- (c) On the Closing Date, Purchaser shall deliver the balance of the Purchase Price, plus or minus prorations, into the Closing Escrow, described below.
- (d) On the Closing Date, Seller and Purchaser shall jointly execute and deliver or cause to be executed and delivered an agreed proration statement and state, county and City transfer tax declarations as necessary.

8. CLOSING ESCROW

This sale shall be closed through an escrow (the "Closing Escrow") with Title Insurer in accordance with the provisions of the customary form of Deed and Money Escrow Instructions. Upon the creation of the Closing Escrow, anything herein to the contrary notwithstanding, payment of the Purchase Price and delivery of the deed shall be made through the Escrow and this Contract and the Earnest Money shall be deposited in the Closing Escrow. The cost of the Closing Escrow shall be paid by Purchaser.

9. DUE DILIGENCE PERIOD

- (a) Purchaser's agents, employees and independent contractors shall have the right and privilege to enter upon the Property from and after the date of this Contract to survey and inspect the Property and to review the utility capacity and location of utilities, conduct soil borings and other geological, environmental, engineering and landscaping tests or studies (collectively, "Purchaser's Studies"), all at Purchaser's sole cost and expense. Copies of all of Purchaser's Studies shall be furnished to Seller promptly upon receipt thereof by Purchaser. Purchaser agrees not to disclose Purchaser's Studies or their results to any other persons or entities without the Seller's prior written consent, which consent may be granted or withheld in the absolute discretion of Seller or unless Purchaser is required by law to disclose such information. Purchaser's obligations under this Contract are subject to and conditioned upon Purchaser's investigation and study of the Property and reasonable satisfaction with such aspects thereof deemed relevant by Purchaser. Purchaser shall have thirty (30) days from the date of this Contract (the "Due Diligence Period") in which to make Purchaser's Studies with respect to the Property. In the event Purchaser in its sole discretion shall conclude that any aspect of the Property is not suitable for Purchaser's intended plan of development, Purchaser shall have the right to elect, by notice to Seller given prior to the expiration of the Due Diligence Period, to terminate this Contract and this Contract thereupon shall be deemed to be terminated and both parties shall be released from any further liability hereunder. If Purchaser does give such notice of termination to Seller, the Earnest Money shall be delivered to Purchaser and the parties shall have no further obligation hereunder. If Purchaser fails to give such notice of termination to Seller as provided herein, Purchaser shall be conclusively deemed to have irrevocably waived any objections to the condition of the Property, and Purchaser agrees to accept the Property "AS IS" and to

release, defend, hold harmless, and indemnify Seller from the Closing Date, for all costs and expenses resulting from any claim, demand, liability or loss relating to the condition of the Property including, but not limited to, the condition of the soil, regardless of when such condition occurred, or who created the condition or allowed it to occur.

Seller agrees to cooperate with and permit the Purchaser and its agents, consultant and contractors to have reasonable access to the Property at reasonable times and upon reasonable prior notice at no cost to Seller or its agents, consultants and contractors for the purpose of performing Site Assessment Work. The Purchaser shall not perform Site Assessment Work, such as tests, work or investigations without the prior written consent of Seller. The Purchaser shall maintain, at its own cost and expense, or the Purchaser's contractor performing such work shall maintain, at its sole cost and expense, the following policies of insurance procured from insurance companies reasonably satisfactory to Seller and rated "A-VII" or better by the current edition of Bests Insurance Reports published by the A.M. Best Company:

- (i) Workers' Compensation Insurance providing statutory benefits and limits which shall fully comply with all state and federal requirements applying to this insurance in the state where the property is located with a waiver of subrogation in favor of Seller, and employer's liability insurance with limits of not less than \$100,000.00 per accident or disease and \$500,000.00 aggregate by disease.
- (ii) Motor Vehicle Liability Insurance with coverage for all owned, non-owned and hire vehicles with combined single limits of not less than \$1,000,000.00 per occurrence for bodily injury and property damage.
- (iii) Commercial General Liability Insurance including, but not limited to, coverage for products/completed operations, premises/operations, contractual and personal/advertising injury liabilities with combined single limits of not less than \$1,000,000.00 per occurrence for bodily injury and property damage naming Seller as an additional insured.
- (iv) Environmental Impairment or Pollution Liability Insurance, including clean up costs, with limits of not less than \$1,000,000.00 per claim and \$2,000,000.00 in the aggregate, naming Seller as an additional insured.
- (v) Any contractor hired to perform environmental tests to the Property shall maintain errors and omissions or professional liability insurance covering injury or damage arising out of the rendering or failing to render professional services with limits of at least \$1,000,000.00 per claim.

The Purchaser warrants that, in the event that it retains a contractor to perform any Site Assessment Work, the contractor will maintain insurance as set forth above. To the extent permitted by law, Purchaser further agrees to indemnify,

defend and hold Seller harmless from any loss, cost, liability, expense and damage suffered by Seller as a result of the Purchaser's breach of this warranty. The Purchaser shall not enter into the Property or commence any portion of the Site Assessment Work prior to delivering to Seller an insurance certificate evidencing that it has the foregoing insurance. The Purchaser agrees that the Site Assessment Work shall be done in accordance with any and all applicable laws, ordinances, statutes, governmental regulations and recorded restrictions on the Property, including, but not limited to, vegetation preservation laws. At the conclusion of the Site Assessment Work, the Purchaser agrees to promptly repair any damage to the Property and to restore the Property to the same condition that it was found prior to the commencement of the Site Assessment Work all at the sole cost and expense of the Purchaser.

- (b) Purchaser hereby covenants and agrees to defend, indemnify and hold harmless Seller and its respective officers, directors, employees, agents, representatives, beneficiaries and contractors, from and against any and all loss, liability, cost, claim, demand, damage, lien, penalty, fine, interest and expense arising out of or in any manner related to the exercise by Purchaser of its rights under this Section 9. If this transaction does not close because of Purchaser's default, Purchaser shall, at its sole cost and expense, restore the Property to its condition as of the day prior to the date of this Contract.

10. USE

To the extent allowed by law, Purchaser agrees that the Property shall only be used for the use set forth in Section 1 herein without in each and every instance, the prior written consent of Seller. The provisions of this Section 10 shall survive the closing of this transaction and shall be set forth as a restrictive covenant in the special warranty deed to be delivered to Purchaser at Closing.

11. REPRESENTATIONS AND WARRANTIES

- (a) Seller represents to Purchaser that as of the date hereof and as of the Closing Date Seller has, or will have by the Closing Date, full capacity, right, power and authority to execute, deliver and perform this Contract and all documents to be executed by Seller pursuant hereto, and all required action and approvals therefor have been duly taken and obtained. The individuals signing this Contract and all other documents executed or to be executed pursuant hereto on behalf of Seller are and shall be duly authorized to sign the same on Seller's behalf and to bind Seller thereto.
- (b) Purchaser represents and warrants to Seller that as of the date hereof and as of the Closing Date:
 - (i) Prior to the Closing Date, Purchaser will not create any easements, liens, mortgages or other encumbrances with respect to the Property; and

- (ii) Purchaser has full capacity, right, power and authority to execute, deliver and perform this Contract and all documents to be executed by Purchaser pursuant hereto, and all required action and approvals therefor have been duly taken and obtained. The individuals signing this Contract and all other documents executed or to be executed pursuant hereto on behalf of Purchaser are and shall be duly authorized to sign the same on Purchaser's behalf and to bind Purchaser thereto.

The continued validity in all material respects of all representations of Seller and all representations and warranties of Purchaser set forth in this Contract shall be conditions precedent to the performance of Seller's and Purchaser's respective obligations hereunder. All representations of Seller and all representations and warranties of Purchaser set forth in this Contract shall be continuing and shall be true and correct on and as of the Closing Date with the same force and effect as if made at that time.

12. AS IS/NO WARRANTIES

Purchaser expressly acknowledges that Purchaser and Purchaser's agents have inspected the Property and that Purchaser is buying the Property in an "AS IS" condition with regard to the physical condition of the Property without warranty or representation of any kind by Seller or any of Seller's respective officers, employees, agents or representatives, including specifically, any warranty or representation as to the presence or absence of any hazardous material. As used herein, the term hazardous material shall mean asbestos, petroleum, polychlorinated biphenyl and any other materials defined as a hazardous substance, hazardous waste, hazardous constituents or solid waste in (a) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §9601 et seq., and any amendments thereto and regulations thereunder, (b) the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq., and any amendments thereto and regulations thereunder, (c) Section 311 of the Federal Water Pollution Control Act, 33 U.S.C. §1251 et seq. (33 U.S.C. §1321), and (d) any other federal, state or local environmental statute or regulation. The foregoing acknowledgment of Purchaser shall be extended to and shall be in full force and effect as of the Closing Date and shall survive the Closing Date. Except for any representations contained elsewhere in this Contract, SELLER HEREBY DISCLAIMS ANY AND ALL WARRANTIES WITH RESPECT TO THE PROPERTY AND PURCHASER HEREBY ASSUMES THE RISK THAT ADVERSE PAST, PRESENT OR FUTURE PHYSICAL CHARACTERISTICS AND CONDITIONS OF THE PROPERTY MAY NOT HAVE BEEN REVEALED BY ITS INSPECTION OR INVESTIGATION. To the extent permitted by law, Purchaser, hereby agrees to release, defend, hold harmless and indemnify Seller and Seller's directors, officers, employees and agents, and successors and assigns, with regard to any demand, claim, liability, loss or damage, including reasonable attorneys' fees and costs, arising from (x) any hazardous materials currently located or which come to be located upon the Property or the release of any hazardous materials into, from or through the Property (whether or not such release was caused by Seller, a tenant, subtenant or prior owner of the Property and whether or not the alleged liability is attributable to the handling, storage, generation, transportation or disposal of

such hazardous materials or the mere presence of such hazardous materials on the Property) or (y) any hazardous materials which have migrated, leached, or traveled onto or off of the Property, from any source. Purchaser acknowledges that Purchaser's Contract hereunder to purchase the Property in its "AS IS" "WHERE IS" condition was bargained for in the Purchase Price.

13. NON-FOREIGN SELLER CERTIFICATION

Seller represents that Seller is not a foreign person as defined in Section 1445 of the Internal Revenue Code of 1986, as amended (the "Code"), and the regulations promulgated thereunder, and is therefore exempt from the withholding requirements of said Section. At Closing, Seller will deliver to Purchaser the certification set forth in Section 1445 of the Code and regulations.

14. DEFAULT AND REMEDIES

If Seller fails or refuses to comply with the terms of this Contract within fifteen (15) days of receipt by Seller of notice of such default, for any reason other than Purchaser's default hereunder or any failure of condition and further provided that Seller has failed to commence any cure as required by such notice of default and to attempt to reasonably cure same, Purchaser shall have the sole and exclusive remedy to terminate the Contract, in which event Purchaser shall be entitled to the prompt return of the Earnest Money and all accrued interest thereon in full satisfaction of all damages suffered by Purchaser by reason of Seller's default. If Purchaser fails or refuses to comply with the terms of this Contract within thirty (30) days of receipt by Purchaser of notice of such default, for any reason other than Seller's default hereunder, Seller's sole remedy shall be to terminate this Contract, in which event Seller shall be entitled to receive the Earnest Money and any accrued interest thereon as liquidated damages and not as a penalty, in full satisfaction of all damages suffered by Seller by reason of Purchaser's default.

15. NOTICES

- (a) Any notice which either party desires or is required to give hereunder shall be in writing and shall be deemed given upon receipt if delivered personally (with evidence of receipt) or three (3) business days after deposit in the mails if sent by United States mail, postage prepaid, either registered or certified, return receipt requested, to the parties at the following addresses:

To Seller: CITY OF WESTLAKE, OHIO
27700 Hilliard Boulevard
Westlake, Ohio 44145
Attn: Dennis M. Clough, Mayor

With copies to: CITY OF WESTLAKE, OHIO
27700 Hilliard Boulevard
Westlake, Ohio 44145
Attn: Director of Law

To Purchaser: GALILEE PROPERTY, LLC
P.O. Box 45238
Westlake, Ohio 44145

- (b) Notice of change of address for receipt of notices shall be sent in the manner set forth in this Section 15.

16. ENTIRE AGREEMENT, AMENDMENTS AND WAIVERS

This Contract contains the entire agreement and understanding of the parties with respect to the subject matter hereof, and the same may not be amended, modified or discharged nor may any of its terms be waived except by an instrument in writing signed by the party to be bound thereby.

17. FURTHER ASSURANCES

The parties each agree to do, execute, acknowledge and deliver all such further acts, instruments and assurances and to take all such further action before or after the Closing as shall be necessary or desirable to fully carry out this Contract and to fully consummate and effect the transaction contemplated hereby.

18. SURVIVAL AND BENEFIT

Except to the extent specifically stated to the contrary elsewhere in this Contract, all representations, warranties, agreements and obligations of the parties contained in this Contract shall be merged with the special warranty deed at Closing. Wherever in this Contract there is a reference to termination of this Contract, such termination shall not be construed to terminate the obligations of the parties with respect to any representations, warranties and agreements of the parties contained in this Contract which by their terms survive termination of this Contract.

19. BROKERAGE

- (a) Seller hereby represents to Purchaser that Seller has not dealt with any broker or finder with respect to the transaction contemplated hereby.
- (b) Seller and Purchaser each represent and warrant that except for the Broker, no other brokers have been retained or involved by either party in connection with this transaction and that no other brokerage commissions are due in connection with this transaction. Purchaser shall defend, indemnify and hold the Seller harmless from any brokerage commission or other charge or fee asserted by any

person, firm or corporation claiming to be hired by such party other than the Broker. This representation and warranty shall survive the Closing Date or the termination of this Contract.

20. GOVERNMENTAL APPROVALS

Purchaser agrees that, without the prior written consent of Seller, no required or desired governmental approval which Purchaser may attempt to obtain in connection with its intended use of the Property shall be obtained in such manner or on such basis that (i) it is effective before Closing occurs; (ii) any restrictions, obligations or undertakings are imposed on the Property before Closing occurs; or (iii) any restriction, obligations or undertakings are imposed at any time upon Seller or upon any other property owned by Seller.

21. ASSIGNMENT

This Contract may not be assigned by Purchaser without the prior written consent of Seller, which consent may be granted or withheld in Seller's sole discretion.

22. NO THIRD PARTY BENEFITS

This Contract is for the sole and exclusive benefit of the parties hereto and their respective successors and permitted assigns, and no third party is intended to or shall have any rights hereunder.

23. SEVERABILITY

In the event that any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Contract shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

24. GOVERNING LAW

This Contract shall be construed and governed in accordance with the laws of the State of Ohio without regard to its conflicts of laws principles.

25. COUNTERPARTS

This Contract may be signed in several counterparts, each of which shall be deemed an original, and all such counterparts shall constitute one and the same instrument. Any counterpart to which is attached the signatures of all parties shall constitute an original of this Contract.

26. SUCCESSORS AND ASSIGNS

This Contract shall be binding upon and insure to the benefit of the respective successors and permitted assigns of the parties to this Contract; provided, however, that Purchaser may only assign this Contract in accordance with the provisions of Section 21 of this Contract.

27. NO RECORDING

Purchaser agrees not to record this Contract or any memorandum or short form of this Contract. Any such recording by Purchaser shall be a default under this Contract and shall entitle Seller to terminate this Contract and retain the Earnest Money.

28. TIME FOR PERFORMANCE

Whenever under the terms of this Contract the time for performance of a covenant or condition falls on a Saturday, Sunday or legal holiday, such time for performance shall be extended to the next business day; otherwise, all references in this Contract to "days" shall mean calendar days.

29. TIME OF THE ESSENCE

Time is of the essence of this Contract.

30. CONDEMNATION

In the event of any taking by the exercise of the power of eminent domain of a substantial portion of the Property prior to the Closing Date (such portion as would impair or otherwise affect the intended use of the Property will be deemed substantial), Purchaser shall have the right to terminate this Contract by giving written notice to Seller within thirty (30) days after receipt by Purchaser of written notification of any such condemnation. If Purchaser elects to terminate this Contract, all awards and compensation arising out of said condemnation shall be the property of Seller and the Earnest Money plus any applicable interest accrued thereon, shall be promptly returned to Purchaser. If Purchaser fails to give Seller notice of termination within said thirty (30) day period, said right to terminate shall be deemed waived and Purchaser shall be credited with or assigned all of Seller's right, title and interest to all awards and compensation arising out of said condemnation, and Purchaser shall remain obligated to purchase the Property with no reduction in the Purchase Price. In the event of any taking of an insubstantial portion of the Property prior to the Closing Date (such portion as would not impair or otherwise affect the intended use of the Property as determined by both Purchaser and Seller in good faith, will be deemed insubstantial), Seller shall assign to Purchaser all of Seller's right, title and interest to all awards and compensation therefore and Purchaser shall remain obligated to purchase the Property with no reduction in the Purchase Price.

31. OTHER ACTS

Purchaser and Seller each hereby agree to perform such other acts, and to execute, acknowledge, and/or deliver such other instruments, documents and materials, as may be reasonably necessary to effect consummation of the transaction contemplated herein.

32. PARAGRAPH HEADINGS

The paragraph headings contained in this Contract are for convenience only and shall in no way enlarge or limit the scope or meaning of the various and several paragraphs hereof. All time periods shall be computed in business days, i.e., excluding, Saturdays, Sundays and national legal holidays.

33. INTERPRETATION

Whenever used in this Contract, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

34. AMENDMENTS

All amendments and/or supplements to this Contract must be in writing and executed by each party hereto. However, such amendments and/or supplements may be executed in counterparts, all of which shall be deemed to constitute one document.

35. NO MERGER

The obligations, representations and warranties herein contained shall not merge with transfer of title but shall survive the Closing and remain in effect until fulfilled.

36. ENTIRE CONTRACT

The parties acknowledge and agree that at all times they have intended that none of the preliminary negotiations concerning this transaction would be binding on either party, and that they would be bound to each other only by a single, formal, comprehensive document containing this paragraph and all of the agreements of the parties, in final form, which has been executed and delivered by Purchaser and Seller. The parties acknowledge that none of the prior oral agreement between them (and none of the representations on which either of them has relied) relating to the subject matter of this Contract shall have any force or effect whatever, except as and to the extent that such agreements and representations have been incorporated in this Contract.

37. PATRIOT ACT

Seller and Purchaser represent and warrant that they are not acting, directly or indirectly, for or on behalf of any person, group, entity, or nation named by the United States Treasury Department as a Specially Designated National and Blocked Person, or for or

on behalf of any person, group, entity, or nation designated in Presidential Executive Order 13224 as a person who commits, threatens to commit, or supports terrorism; and that they are not engaged in this transaction directly or indirectly on behalf of, or facilitating this transaction directly or indirectly on behalf of, any person, group, entity or nation.

IN WITNESS WHEREOF, the parties hereto have executed this Real Estate Sale Contract as of the date first above written.

PURCHASER:
GALILEE PROPERTY, LLC

By: _____
Name: _____
Title: _____

SELLER:
CITY OF WESTLAKE, OHIO

By: _____
Name: Dennis M. Clough
Title: Mayor

APPROVED AS TO FORM:

By: _____
Name: John D. Wheeler
Title: Director of Law

CUYAHOGA COUNTY RECORDER
LILLIAN J GREENE - 4
DEED 12/31/2008 2:25:17 PM
200812310361

GENERAL WARRANTY DEED

Statutory Form §5302.05 O.R.C.

KNOW ALL MEN BY THESE PRESENTS, that HO-CHAR, an Ohio general partnership, having acquired title in the fictitious name Hochar Partnership ("Grantor"), for valuable consideration paid, hereby gives, grants, bargains, sells and conveys with General Warranty Covenants to the CITY OF WESTLAKE OHIO ("Grantee"), whose tax-mailing address is 27700 Hilliard Boulevard, Westlake, Ohio 44145, the following described real property:

Legal Description: attached as Exhibit "A"

Permanent Parcel Numbers: 217-14-023, 217-14-025, and 217-14-030

Prior Instrument References: Volume 87-7274, Page 67 of the Cuyahoga County Recorder's Office; Volume 87-7274, Page 69 of the Cuyahoga County Recorder's Office; Volume 86-6275, Page 1 of the Cuyahoga County Recorder's Office

SUBJECT TO: easements, conditions, restrictions, and limitations of record; taxes and assessments, both general and special, that are a lien, but are not yet due and payable; and zoning laws and regulations.

IN WITNESS WHEREOF, the undersigned have executed this General Warranty Deed as of the 12 day of December 2008.

WILLIAM T. WULIGER, Attorney At Law
Notary Public - State of Ohio
My commission has no expiration date,
Section 147.03 R.C.

Permanent 217-14-023
Parcel #: 217-14-025
217-14-030

Type Instrument: Warranty Deed Ex

Tax District #: 3370

Grantor: Hochar Partnership

Grantee: Hochar Partnership

Balance Assumed: \$ 0.00

Total Consideration: \$ 0.00

Conv. Fee Paid: \$ 0.00

Transfer Fee Paid: \$ 1.50

Fee Paid by: Chicago Title Insurance C

Exempt Code:

Date: 12/31/2008 2:15:00 PM

Tax List Year: 2008

Land Use Code: 5000

Land Value: 26,500

Building Value: 0

Total Value: 26,500

Arms Length Sale: UNKNW

Rcpt: G-12312008-15

Inst #: 384232

Check #:

HO-CHAR, an Ohio general partnership

By:

Charles D. Shimola, General Partner

By:

Howard Shimola, General Partner

EXHIBIT "A"

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

BE IT REMEMBERED, that on the 12 day of December, 2008, before me, a notary public, personally came the above named Charles D. Shimola, General Partner of HO-CHAR, an Ohio general partnership, the grantor in the foregoing general warranty deed, and acknowledged the signing of the same to be his voluntary act and deed both individually, and as the general partner of said general partnership.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my seal on the day and year last aforesaid.

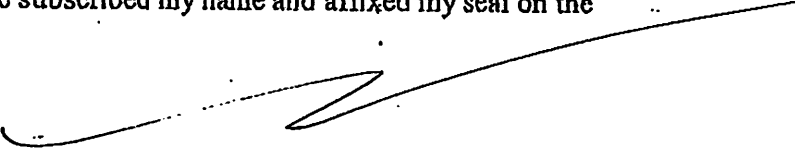

Notary Public

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

WILLIAM T. WULFEN, Attorney at Law
Notary Public - State of Ohio
My commission has no expiration date.
Section 147.02 H.B.

BE IT REMEMBERED, that on the 12 day of December, 2008, before me, a notary public, personally came the above named Howard Shimola, General Partner of HO-CHAR, an Ohio general partnership, the grantor in the foregoing general warranty deed, and acknowledged the signing of the same to be his voluntary act and deed both individually, and as the general partner of said general partnership.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my seal on the day and year last aforesaid.


Notary Public

This Instrument was prepared by:

Roetzel & Andress, LPA
1375 East Ninth Street, Ninth Floor
Cleveland, Ohio 44114
Attn: Hugh S. Kinast, Esq.

WILLIAM T. WULFEN, Attorney at Law
Notary Public - State of Ohio
My commission has no expiration date.
Section 147.02 H.B.

OK
me

EXHIBIT "A"

Parcel No. 1: (PPN: 217-14-023)

Situated in the City of Westlake, County of Cuyahoga and State of Ohio and known as being part of Original Dover Township Lot No. 1 and bounded and described as follows:

Beginning on the center line of Center Ridge Road at a point distant N. 48° 38' 30" E., measured along said center line 190.00 feet from its intersection with the Northeasterly line of a parcel of land conveyed to Theodore M. Colgrove by deed recorded in Volume 11695, Page 403 of Cuyahoga County Records of Deeds;

Thence S. 36° 07' 00" E., parallel with said Northeasterly line of land conveyed to Theodore M Colgrove a distance of 170.17 feet;

Thence N. 48° 38' 30" E", a distance of 20.00 feet;

Thence S. 36° 07' 00" E., a distance of 33.15 feet to the Southeasterly line of a parcel of land conveyed to H. H. Hubble and Gertrude Hubble by deed recorded in Volume 8213, Page 235 of Cuyahoga County Records of Deeds;

Thence N. 48° 38' 30" E., along the Southeasterly line of land so conveyed to H. H. and Gertrude Hubble a distance of 30.41 feet to the most Easterly corner thereof;

Thence N. 26° 32' 55" W., along the Northeasterly line of land so conveyed to H. H. and Gertrude Hubble, a distance of 209.43 feet to the centerline of Center Ridge Road;

Thence S. 48° 38' 30" W., along the center line of Center Ridge Road, a distance of 85.37 feet to the place of beginning according to a survey by The Henry G. Reitz Engineering Company dated September 28th, 1966, be the same, more or less, but subject to all legal highways.

Excepting therefrom, that portion of the premises as dedicated in the Center Ridge Road Dedication Plat as recorded in Volume 118 of Maps, Page 22 of Cuyahoga County Records.

Parcel No. 2: (PPN: 217-14-025)

Situated in the City of Westlake, County of Cuyahoga and State of Ohio and known as being part of Original Dover Township Lot No. 1 and bounded and described as follows:

Beginning an the center line of Center Ridge Road at its intersection with the Northeasterly line of a parcel of land conveyed to Theodore M. Colgrove by deed recorded in Volume 11695, Page 403 of Cuyahoga County Records of Deeds;

thence N. 48° 38' 30' E., along the center line of Center Ridge Road, a distance of 90.00 feet,

thence S. 36° 07' 00° E., parallel with said Northeasterly line of land conveyed to Theodore M. Colgrove, a distance of 346.43 feet to the Southerly lire of said Original Dover Township Lot No. 1;

Thence N. 89° 20' 00" W., along the Southerly line of said Original Dover Township Lot No. 1, a distance of 111.90 feet to the Northeasterly line of land so conveyed to Theodore M. Colgrove;

thence N. 36° 07' 00" W., along the Northeasterly line of land so conveyed to Theodore M. Colgrove, a distance of 271.20 feet to the place of beginning according to a survey by The Henry G. Reitz Engineering Company dated September 9, 1966.

Excepting therefrom, that portion of the premises as dedicated in the Center Ridge Road Dedication Plat as recorded in Volume 118 of Maps, Page 22 of Cuyahoga County Records.

Parcel No. 3: (PPN: 217-14-030)

Situated in the City of Westlake, County of Cuyahoga and State of Ohio and known as being part of Original Dover Township Lot No. 1 and bounded and described as follows:

Beginning on the center line of Center Ridge at a point distant N. 48° 38' 30" E., measured along said center line 90.00 feet from its intersection with the Northeasterly line of a parcel of land conveyed to Theodore M. Colgrove by deed recorded in Volume 11695, Page 403 of Cuyahoga County Records of Deeds;

Thence N. 48° 38' 30" E. along the center line of Center Ridge Road a distance of 100.00 feet;

Thence S. 36° 07' 00" E., parallel with said Northeasterly line of land conveyed to Theodore M. Colgrove a distance of 170.17 feet;

Thence N. 48° 38' 30" E. a distance of 20.00 feet;

Thence S. 36° 07' 00" E., a distance of 33.15 feet to the Southeasterly line of a parcel of land conveyed to H.H. Hubble and Gertrude Hubble by deed recorded in Volume 8213, Page 235 of Cuyahoga County Records of Deeds;

Thence S. 48° 38' 30" W. along the Southeasterly line of land so conveyed to H.H. Hubble and Gertrude Hubble. a distance of 10.00 feet to its intersection with the Northeasterly line of a parcel of land conveyed to H.H. Hubble and Gertrude Hubble by deed recorded in Volume 7896, Page 333 of Cuyahoga County Record of Deeds;

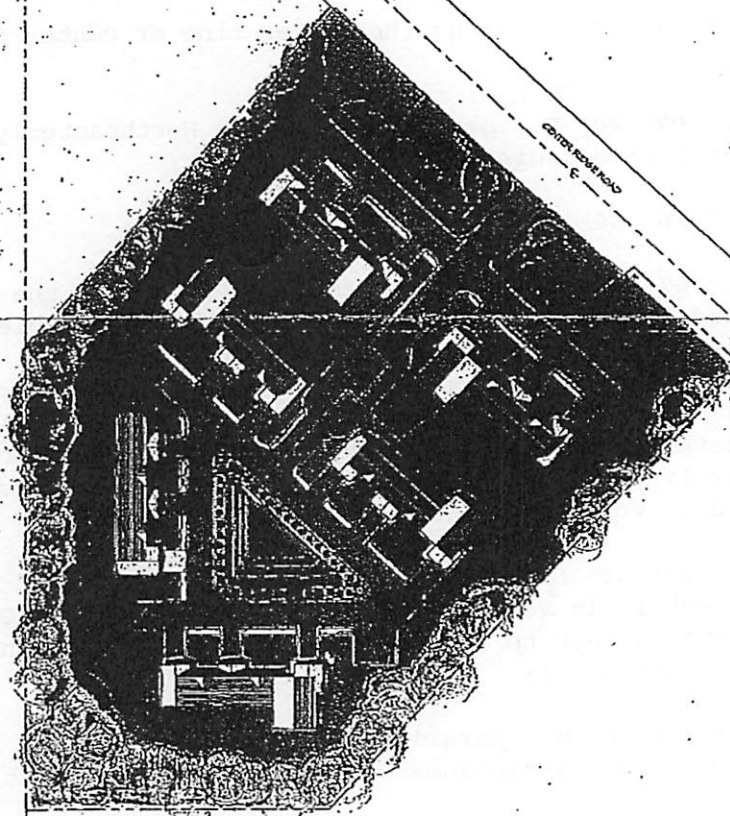
Thence S. 36° 07' 00" E., along the Northeasterly line of land conveyed to H.H. Hubble and Gertrude Hubble in Volume 7896, Page 333 of Cuyahoga County Records of Deeds a distance of 235.05 feet to its intersection with the Southerly line of said Original Dover Township Lot No. 1;

Thence N. 89° 20' 00" W., parallel with the Northeasterly line of land so conveyed to Theodore M. Colgrove, a distance of 136.77 feet to a point;

Thence N. 36° 07' 00" W. 346.50 feet to the place of beginning according to a survey by The Henry G. Reitz Engineering Company dated September 28, 1966, be the same more or less, but subject to all legal highways.

Excepting therefrom, that portion of the premises as dedicated in the Center Ridge Road Dedication Plat as recorded in Volume 118 of Maps, Page 22 of Cuyahoga County Records.

SITE PLAN
1" = 40'-0"



RECEIVED
DEC 26 2004

PLANNING DEPT.
CITY OF WESTLAKE

SP

CENTER RIDGE TOWNHOUSE

ARCHITECTS, C.A. McGETTRICK, LLC

14551 Madison Ave., Lakewood, Ohio 44107, 216-227-0700 FAX: 216-227-0712

EXHIBIT "B"